THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.3002 of 1999

ORAL ORDER:

This writ petition is filed seeking a Mandamus declaring the action of the respondent in rejecting the benefit of continuity of service to the petitioner as per the judgment of the Supreme Court as arbitrary and illegal and consequently direct the respondent to fix the scale of pay of the petitioner after giving notional fixation and further promotion.

It appears, petitioner was terminated from service with effect from 17.1.1991 while working as Junior Planner in the Respondent Company. However, in a writ petition filed before this Court, the said termination order was set aside and he was directed to be appointed afresh. Aggrieved thereby, petitioner carried the matter in appeal before the Supreme Court being Civil Appeal No.15510 of 1996 (S.L.P.No.7888 of 1996) and the Apex Court vide its judgment dated 3.12.1996, disposed of the matter with the following directions:

> "In the facts of the case, justice demands that the respondent Company will grant to the appellant admissible leave on all counts according to the service rules and the remaining period prior to his appointment with effect from March 23, 1993 should be treated as period under extraordinary leave without pay. It is made clear that the appellant will not get any backwages on the footing that he was in active service for the entire period. But it is made clear that the appellant will get the benefit of continuity of service on the footing that his order of dismissal stood revoked. This order is being passed by this Court in the special facts and circumstances of the case and also taking into consideration that the appellant is a member of the weaker section of the community who needs protection. The appeal is accordingly disposed of".

The learned counsel for petitioner submits that in view of the judgment of the Apex Court, petitioner is entitled for continuity of service and all consequential benefits, such as, seniority promotion etc.

No counter is filed and none appeared on behalf of respondent Company.

In the facts and circumstances of the case and in view of the above judgment of the Apex Court, I am of the opinion that the petitioner is entitled for continuity of service, which according to the petitioner was denied. Once the petitioner is entitled for the benefit of continuity of service, he is also entitled for seniority and other benefits flowing out of such continuity of service as ordered by the Apex Court. Therefore, the respondent Company is directed to treat the period of service from 17.1.1991 to 7.1.1997 as continuity of service and allow all benefits, such as, seniority and promotion, to the petitioner on par with his juniors in the respective cadres. This exercise shall be done within a period of (8) weeks from the date of receipt of this order and communicate the same to the petitioner.

The writ petition is accordingly disposed of. No order as to costs.

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C.V.RAMULU, J

Date: 7.11.2007
DA

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.3002 of 1999

7.11.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.3002 of 1999

Date: 7th November, 2007

Between:

J.Sriramulu

.. Petitioner

And

Bharat Heavy Plates and Vessels Ltd.,
represented by its General Manager (Operations),
Visakhapatnam.

.. Respondent